

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

-----X
KURT GERKE,

Plaintiff, 16 Civ.

-against- COMPLAINT

PORT AUTHORITY TRANS HUDSON,

Defendant.

-----X

PLAINTIFF DEMANDS TRIAL BY JURY

Plaintiff, by his attorneys, Flynn & Wietzke, PC, complains of the defendant and alleges:

AS AND FOR A FIRST CAUSE OF ACTION AGAINST
THE DEFENDANT PORT AUTHORITY TRANS HUDSON

FIRST: This action is brought under the Federal Employers' Liability Act, (45 U.S.C. Sec. 51 et seq.).

SECOND: The defendant is a corporation engaged in interstate commerce by rail and operates a railroad system and railroad yards within the jurisdiction of this Court and in various other States.

THIRD: That prior to August 23, 2013, and at all times hereinafter mentioned, the defendant employed the plaintiff as a signal maintainer under its direction, supervision and control and in furtherance of defendant's business in interstate commerce.

FOURTH: That prior to August 23, 2013, and at all times hereinafter mentioned, the defendant maintained, operated and controlled the Caisson 3 Lower Relay Room which contained defendant's tracks, rails, switches, sidings, roadbeds and appurtenances thereto, over, through and upon which the defendant operated engines, trains and cars under its control and direction.

FIFTH: That on or about August 23, 2013, while the plaintiff, an employee of the defendant, was in the performance of his duties as a signal maintainer near the Caisson 3 Lower Relay Room, Jersey City, New Jersey, walking from the track area into the relay room, the defendant, its agents, servants and employees, so negligently and carelessly conducted themselves toward the plaintiff in failing to provide plaintiff with a

reasonably safe place to work; in failing to warn plaintiff; in failing to inspect; in failing to maintain plaintiff's work place; in failing to provide proper lighting; in failing to maintain and/or otherwise support the platform provided for walking; and, so negligently failed and neglected to enact and enforce safety rules, regulations, procedures, and practices for activities carried out by its personnel at the said place, that all of the foregoing brought about severe and disabling injuries to plaintiff, including but not limited to bulges and protrusions at L4-L5 and L5-S1, plus pain to his right shoulder, when the walking platform tipped due to being loose.

SIXTH: That the said injuries occurred while the plaintiff was acting in the furtherance of interstate commerce or in work closely or substantially affecting the same.

SEVENTH: That the plaintiff was damaged thereby in the sum of \$500,000.00.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST
THE DEFENDANT PORT AUTHORITY TRANS HUDSON

EIGHTH: Plaintiff repeats and reiterates each and every allegation contained in the foregoing paragraphs with the same force and effect as if fully set forth at length herein.

NINTH: This action is brought under the Federal Employers' Liability Act, (45 U.S.C. Sec. 51 et seq.).

TENTH: The defendant is a corporation engaged in interstate commerce by rail and operates a railroad system and railroad yards within the jurisdiction of this Court and in various other States.

ELEVENTH: That prior to August 21, 2014, and at all times hereinafter mentioned, the defendant employed the plaintiff as a signal maintainer under its direction, supervision and control and in furtherance of defendant's business in interstate commerce.

TWELFTH: That prior to August 21, 2014, and at all times hereinafter mentioned, the defendant maintained, operated and controlled the right-of-way near Caisson 3 Lower Level which contained defendant's tracks, rails, switches, sidings, roadbeds and appurtenances thereto, over, through and upon which the defendant operated engines, trains and cars under its control and direction.

THIRTEENTH: That on or about August 21, 2014, while the plaintiff, an employee of the defendant, was in the performance of his duties as a signal maintainer along the right-of-way in the tunnel near Caisson 3 Lower Level between Relay Room and Shaft, Jersey City, New Jersey, the defendant, its agents, servants and employees, so negligently and carelessly conducted themselves toward the plaintiff in failing to provide plaintiff with a reasonably safe place to work; in failing to warn plaintiff; in failing to inspect; in failing to maintain plaintiff's work place; in failing to provide proper lighting; in failing to cover drainage holes; and, so negligently failed and neglected to enact and enforce safety rules, regulations, procedures, and practices for activities carried out by its personnel at the said place, when plaintiff stepped in an uncovered drainage hole, that all of the foregoing brought about severe and disabling injuries to plaintiff, including but not limited to aggravation of existing lower back and right shoulder injuries.

FOURTEENTH: That the said injuries occurred while the plaintiff was acting in the furtherance of interstate commerce or in work closely or substantially affecting the same.

FIFTEENTH: That the plaintiff was damaged thereby in the sum of \$500,000.00 WHEREFORE, plaintiff demands judgment in the First Cause of Action against the defendant in the sum of FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS; plaintiff demands judgment in the Second Cause of Action against the defendant in the sum of FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS, together with the costs and disbursements of this action.

Flynn & Wietzke, PC
Attorneys for Plaintiff
1205 Franklin Avenue
Garden City, NY 11530
(516) 877-1234

By: 

MARC WIETZKE